

<b>FORM N-324 (REV. 2003)</b>	<h1 style="margin:0;">ETHANOL INVESTMENT TAX CREDIT</h1> <p style="margin:0;">Or fiscal year beginning _____, 20____, and ending _____, 20____</p>	<b>TAX YEAR</b>  <b>20__</b>
---------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------

ATTACH TO FORM N-11, N-12, N-15, N-20, N-30, N-35, N-40, OR N-70NP, WHICHEVER IS APPLICABLE.

Name(s) as shown on Form N-11, N-12, N-15, N-20, N-30, N-35, N-40, or N-70NP	SSN or FEIN
------------------------------------------------------------------------------	-------------

**Note: If you are only claiming the tax credit from a flow-through entity, start on line 8.**

<b>1.</b> Enter the nameplate capacity of the ethanol facility .....	<b>1</b>		
<b>2.</b> Enter the total qualified investment in the ethanol facility .....	<b>2</b>		
<b>3.</b> Multiply the amount on line 2 by 30% (.30) and enter the result.....	<b>3</b>		
<b>4.</b> Enter the cumulative tax credit amount allowed or claimed in prior years .....	<b>4</b>		
<b>5.</b> Subtract line 4 from line 2 .....	<b>5</b>		
<b>6.</b> Enter the dollar amount listed below applicable to the nameplate capacity (line 1) of the ethanol facility: \$150,000 if the capacity is at least 500,000, but not over 1 million gallons per year \$300,000 if the capacity is over 1 million, but not over 2 million gallons per year \$600,000 if the capacity is over 2 million, but not over 3 million gallons per year \$900,000 if the capacity is over 3 million, but not over 4 million gallons per year \$1,200,000 if the capacity is over 4 million, but not over 5 million gallons per year \$1,500,000 if the capacity is over 5 million, but not over 6 million gallons per year \$1,800,000 if the capacity is over 6 million, but not over 7 million gallons per year \$2,100,000 if the capacity is over 7 million, but not over 8 million gallons per year \$2,400,000 if the capacity is over 8 million, but not over 9 million gallons per year \$2,700,000 if the capacity is over 9 million, but not over 10 million gallons per year \$3,000,000 if the capacity is over 10 million, but not over 11 million gallons per year \$3,300,000 if the capacity is over 11 million, but not over 12 million gallons per year \$3,600,000 if the capacity is over 12 million, but not over 13 million gallons per year \$3,900,000 if the capacity is over 13 million, but not over 14 million gallons per year \$4,200,000 if the capacity is over 14 million, but not over 15 million gallons per year \$4,500,000 if the capacity is over 15 million gallons per year .....	<b>6</b>		
<b>7.</b> Enter the lesser of lines 3, 5, or 6 ..... If applicable, also enter this amount on Forms N-20 and N-35, Schedule K. Enter beneficiaries share on Form N-40, Schedule K-1, line 10.	<b>7</b>		
<b>8.</b> Flow through of the prorated ethanol investment tax <b>credit</b> from other entities, if any. Name and Federal Employer I.D. number of the entity  _____ <i>Check box below.</i> <input type="checkbox"/> S corporation shareholder—enter total from Form N-35, Schedule K-1, line 12p..... <input type="checkbox"/> Partner—enter total from Form N-20, Schedule K-1, line 26 ..... <input type="checkbox"/> Beneficiary—enter total from Form N-40, Schedule K-1, line 10 ..... <input type="checkbox"/> Patron—enter amount from federal Form 1099-PATR .....	<b>8</b>		
<b>9.</b> Maximum annual ethanol investment tax credit allowable. Add lines 7 and 8. Enter this amount, rounded to the nearest dollar, on Schedule CR, line 20, or enter the estate's or trust's share on Form N-40, Schedule F, line 7 .....	<b>9</b>		

**GENERAL INSTRUCTIONS**

Section 235-110.3, Hawaii Revised Statutes, provides that each year during the credit period, there shall be allowed to each taxpayer subject to Hawaii income taxes, an ethanol investment tax credit that shall be applied to the taxpayer's net income tax liability, if any, for the taxable year in which the credit is properly claimed. The maximum annual credit allowable for the investment in a qualified ethanol facility that is in production on or before January 1, 2012, shall be determined in accordance with the following schedule:

- (1) If nameplate capacity is at least 500,000 but not over 1,000,000, the investment tax credit is the lesser of thirty per cent of the investment, or \$150,000;
- (2) If nameplate capacity is over 1,000,000, but not over 2,000,000, the investment tax credit is the lesser of thirty per cent of the investment, or \$300,000;

- (3) If nameplate capacity is over 2,000,000, but not over 3,000,000, the investment tax credit is the lesser of thirty per cent of the investment or \$600,000;
- (4) If nameplate capacity is over 3,000,000, but not over 4,000,000, the investment tax credit is the lesser of thirty per cent or \$900,000;
- (5) If nameplate capacity is over 4,000,000, but not over 5,000,000, the investment tax credit is the lesser of thirty per cent or \$1,200,000;
- (6) If nameplate capacity is over 5,000,000, but not over 6,000,000, the investment tax credit is the lesser of thirty per cent or \$1,500,000;
- (7) If nameplate capacity is over 6,000,000, but not over 7,000,000, the investment tax credit is the lesser of thirty per cent or \$1,800,000;

(Continued on back)

- (8) If nameplate capacity is over 7,000,000, but not over 8,000,000, the investment tax credit is the lesser of thirty per cent or \$2,100,000;
- (9) If nameplate capacity is over 8,000,000, but not over 9,000,000, the investment tax credit is the lesser of thirty per cent or \$2,400,000;
- (10) If nameplate capacity is over 9,000,000, but not over 10,000,000, the investment tax credit is the lesser of thirty per cent or \$2,700,000;
- (11) If nameplate capacity is over 10,000,000, but not over 11,000,000, the investment tax credit is the lesser of thirty per cent or \$3,000,000;
- (12) If nameplate capacity is over 11,000,000, but not over 12,000,000, the investment tax credit is the lesser of thirty per cent or \$3,300,000;
- (13) If nameplate capacity is over 12,000,000, but not over 13,000,000, the investment tax credit is the lesser of thirty per cent or \$3,600,000;
- (14) If nameplate capacity is over 13,000,000, but not over 14,000,000, the investment tax credit is the lesser of thirty per cent or \$3,900,000;
- (15) If nameplate capacity is over 14,000,000, but not over 15,000,000, the investment tax credit is the lesser of thirty per cent or \$4,200,000; and
- (16) If nameplate capacity is over 15,000,000, the investment tax credit is the lesser of thirty per cent or \$4,500,000.

### Definitions

"Credit period" means a maximum period of eight years for facilities with a total investment of less than \$50,000,000, and, a maximum period of ten years for facilities with a total investment equal to or greater than \$50,000,000, beginning from the first taxable year in which the credit is properly claimed.

"Investment" means a nonrefundable expenditure directly related to the construction of any qualifying ethanol production facility, exclusive of land costs. For purposes of the tax credit, investment includes any investment for which the taxpayer is at risk, as that term is used in section 465 of the Internal Revenue Code (with respect to deductions limited to amount at risk).

"Maximum annual credit allowable" means the total credit claimed against the taxpayer's net income tax liability for any taxable year; provided that the qualifying ethanol facility operated in such taxable year at a level of production of at least seventy-five per cent of its nameplate capacity on an annualized basis.

"Nameplate capacity" means the qualifying ethanol facility's production design capacity, in gallons of ethanol per year, based on an assumed operating year of three hundred fifty days.

"Net income tax liability" means net income tax liability reduced by all other credits allowed under this chapter.

"Qualifying ethanol production" means ethanol produced from renewable, organic feedstocks, or waste materials, including municipal solid waste. All qualifying production shall be fermented, distilled, and dehydrated at the facility.

"Qualifying ethanol production facility" means a facility located in Hawaii which produces motor fuel grade ethanol meeting the minimum specifications by the American Society of Testing and Materials standard D-4806, as amended.

The tax credit allowable over the credit period is capped at 100 percent of the qualifying investment. For example, Company X invests \$7.1 million in a qualifying ethanol facility with an annual nameplate capacity of 7.2 million gallons. The total tax credit allowable each year is the lesser of 30 percent of the investment ( $0.30 \times \$7,100,000 = \$2,130,000$ ) or the nameplate capacity dollar amount (\$2,100,000) until the \$7.1 million investment is recovered. Company X may claim a \$2.1 million tax credit each year for three years and a \$800,000 tax credit in the fourth year.

If the credit exceeds the taxpayer's income tax liability, the excess of credit over liability shall be refunded to the taxpayer; provided that no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than \$1. All claims for a credit under this section must be properly filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

If a qualifying ethanol facility or an interest therein is acquired by a taxpayer prior to the expiration of the credit period, the credit allowable for any period after such acquisition shall be equal to the maximum annual credit allowable and credit period that would have been allowable to the prior owner had the owner not disposed of the interest. If an interest is disposed of during any year for which the credit is allowable, the credit shall be allowable between the parties on the basis of the number of days during the year the interest was held by each owner. In no case shall the credit be allowed after the expiration of the credit period.

Once the total nameplate capacities of ethanol production facilities built within the State reaches or exceeds a level of forty million gallons per year, no new ethanol investments or ethanol production facilities shall be allowed to begin claiming credits. If a new facility's production capacity would cause the statewide ethanol production capacity to exceed forty million gallons per year, only the portion of the investment corresponding to ethanol production that does not exceed the statewide forty million gallon per year level shall be eligible for the credit.

If a qualifying facility fails to achieve an average annual production of at least seventy-five per cent of its nameplate capacity for two consecutive years, the stated capacity of that facility may be revised by the director of taxation to reflect actual production for the purposes of determining statewide production capacity and allowable investment credits for that facility.

### INFORMATION REPORTING REQUIREMENTS FOR THE ETHANOL PRODUCER

1. Prior to construction of any new ethanol production facility, the producer shall provide written notice of the producer's intention to begin construction of a qualifying ethanol production facility. The information shall be provided to the Department of Taxation and the Department of Business, Economic Development, and Tourism on forms provided by the Department of Business, Economic Development, and Tourism, and shall include information on the facility owner, facility location, facility production capacity, anticipated production start date, and the facility owner's contact information. This information shall be available for public inspection and dissemination.
2. A qualifying ethanol producer shall provide written notice to the Director of Taxation and the Director of Business, Economic Development, and Tourism within thirty days of the initial qualifying production. The notice shall include the production start date and expected qualifying production for the next twenty-four months. This information shall be available for public inspection and dissemination. Attach a copy of this notice to Form N-324 for the first year the credit is claimed.
3. Each calendar year during the credit period, each qualifying producer shall provide information to the Director of Business, Economic Development, and Tourism on the number of gallons of ethanol produced and sold during the previous calendar year, how much was sold in Hawaii versus overseas, feedstocks used for ethanol production, the number of employees of the facility, and the projected number of gallons of ethanol production for the succeeding year.